

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 708 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  - 2\ . To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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BS VAGHELA

Versus

CLARASIS ORGANICS LTD.

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Appearance:

MR MB GANDHI for Petitioners  
MR PK JANI for Respondent Nos. 1 to 5  
MR LATHIGARA for Respondent No. 8  
Respondent Nos. 6 and 7 deleted

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 11/02/98

ORAL JUDGEMENT

Rule. Mr PK Jani waives service of Rule on behalf of respondents Nos. 1 to 5. Mr Lathigara waives service of Rules on behalf of respondent No. 8. At the request of the learned counsel for the petitioner, respondents Nos. 6 and 7 are deleted.

2. In the facts and circumstances of the case, the petition is taken up for final disposal. This petition filed by the Sarpanch of Mokshi Gram Panchayat challenges

ad-interim order dated January 23, 1998 passed by the State Government in the Panchayat and Rural Housing Development Department staying the collection of octroi by Mokshi Gram Panchayat in Savli Taluka, Baroda District either through its own employees or through any contractor. The ad-interim order is passed in the revision application filed by respondents Nos. 1 to 4 herein and other industries.

3. Learned counsel for the petitioner submitted that the State Government ought not to have passed such a blanket stay against collection of octroi as the octroi is the principal source of revenue for the Gram Panchayat. It is submitted that if the revision application is dismissed, the Gram Panchayat will suffer irreparable loss and injury and the panchayat will not be able to get the amount of octroi on account of the ad-interim stay and the industries like respondent Nos. 1 to 4 and others will bring goods within the local limits of the Gram Panchayat without paying octroi or without maintaining any accounts for the same.

4. On the other hand, Mr P K Jani, learned counsel for respondent Nos. 1 to 4 and other industries within the limits of the Gram Panchayat whose names are mentioned at the bottom of the impugned order, has submitted that this Court may not interfere with the ad-interim order passed by the State Government in the revision application. It is further submitted that hearing of the revision application is fixed on February 23, 1998 and, therefore, also no interference of this Court is called for at this stage. As far as the question of safeguarding the interest of the village panchayat is concerned, the learned counsel for respondent Nos. 1 to 4 and other industries within the limits of the Gram Panchayat states that without prejudice to their rights and contentions, the aforesaid industries are prepared to deposit with the Gram Panchayat such amount as may be determined by this Court.

5. Having heard the learned counsel for the parties, in the facts and circumstances of the case, it is directed that the impugned order dated January 23, 1998 passed by the State Government in revision shall operate subject to the condition that respondent Nos. 1 to 4 and other industries mentioned in the impugned order dated January 23, 1998 shall deposit with Mokshi Gram Panchayat an amount of Rs. 75,000/- (Rupees Seventy Five thousand only) on or before February 20, 1998. In case the amount as aforesaid is not deposited with the Gram Panchayat within the aforesaid time limit, the ad-interim

injunction order passed by the State Government against collection of octroi shall stand vacated. It is further directed that respondent Nos. 1 to 4 and other industries as aforesaid shall maintain accounts of the goods brought within the limits of the Gram Panchayat.

It goes without saying that in case the applicants before the State Government in revision succeed in the revision application, the amount will be refunded to the concerned industries which have deposited the amount/s pursuant to this order.

It is clarified that the aforesaid amount of Rs. 75,000/- is determined without prejudice to the rights and contentions of the parties and on the basis that the octroi contractor is required to pay the Gram Panchayat an amount of Rs. 51,000/- (approximately) every month as an instalment towards payment of the octroi amount under the ijara.

6. It is further directed that the State Government shall hear the revision application on February 23, 1998 as already scheduled for hearing. The learned counsel for the parties state that their respective clients or the learned advocates appearing for them before the State Government in revision shall not ask for any adjournment. After hearing the revision application, the authority shall pass the order in accordance with law at the earliest and in any case within ten days from the date of hearing.

7. This order is passed without going into the merits of the matter, and without prejudice to the rights and contentions of the parties and the revisional authority shall hear and decide the revision application without being influenced by any direction given or observation made in this order.

8. Rule is made absolute to the aforesaid extent only with no order as to costs. Direct Service is permitted.

February 11, 1998 (M.S. Shah, J.)